CH 100/-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO.3559 OF 2003

PETITIONER

Ashok Dolaskar, S/o Shri Amrit Rao Dolaskar, aged About 48 years, Proprietor Sagar TV Service, Handipara Road, Shiv Nagar,Raipur[CG]

V E R S U S

RESPONDENTS

1. Medical Council of India Through its Secretary, Aiwan-e-Galib Marg, Kotla Road, Oppt. Mata Sundari College [for Women], New Delhi – 110 002 [India]

2. Madhya Pradesh Medical Council, through Registrar, F-7, Sanchi Complex, Oppt. Board Office, Bhopal [M.P.] Pin Code 462011

3. Dr.[Smt.] Jaishree Padarha, Opposite Samrat Cinema, Raipur – 492 001 [C.G.]

4. Dr. Prakash Bhagwat, 11, South Avenue, Choubey Colony, Raipur 492001 [CG]

P. R. No. 3362/03
Presented by Shri M.S. Rajpal Singh
dated 30.10.03

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

(10)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 3559/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	09/02/2004 Shri Manindra Shrivastva, counsel for the petitioner. Shri V.V.S. Murthy, Addl. Central Govt. Standing Counsel for Union of India/respondent no.1. By this writ petition under Article 226 of the Constitution of India, the petitioner is challenging the inaction on the part of respondent no.1 in not taking appropriate action against respondents no. 3 and 4 who are practicing as Medical Practitioners without being duly registered by Medical Council of India in respect of specialization which they claim. The case of the petitioner is that the petitioner developed an abdominal pain sought medical treatment from one Dr. Sajjan Agrawal who advised the petitioner to take treatment from Dr. Prakash Bhyagwsat, the respondent no.4. The petitioner, thereafter, contacted on 19/12/1998 and the petitioner was subjected to certain tests and he was required to give sample of body cell for being checked up and investigated by another Dr. (Mrs). Jaishree Padraha, the respondentno.3 advised to take certain medicines. Respondent no.3 after making certain investigation, declared that the petitioner is suffering from Cancer. Petitioner was shocked. Respondent no.3 sent the said report to respondent no.4, who advised the petitioner to undergo operation and demanded Rs.40,000/-. He was also advised to go for ultra-sonography test. When the petitioner got himself treated the said ultra-sonography test indicated normal condition of the petitioner. Even thereafter Dr.Prakash Bhagwat advised the petitioner to go for operation and asked him to deposit Rs.40,000/-.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.3559/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित – 02 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The medicines which were prescribed by the respondent no.4 were also taken by the petitioner. Thereafter, the petitioner went for several medical tests like X-ray – Chest, Ultra Sonography, X-ray Barium etc. It was also reported in all such reports that petitioner does not suffer from Cancer. Petitioner got himself checked up to which the report was to the effect that he is suffering from Ulcer and not from any cancerous disease. Thereafter, the petitioner went to check up in TATA Memorial Cancer Hospital at Mumbai in which final report was given on 18/01/2001 in which it was again clarified that the petitioner does not suffer from any cancerous disease. Petitioner suffered lot of mental agony, undergone several tests and incurred heavy expenditure. The petitioner feeling seriously aggrieved of the negligent, callus and irresponsible act and behaviour and conduct of the two Doctors, the respondents no. 3 and 4, petitioner made complaint with Medical Council of India as also the Madhya Pradesh Medical Council at Bhopal. Both the authorities initiated enquiries. A copy of the report/complaint made by the petitioner to Medical Council of India is annexed herewith as Annexure P/1. On the complaint made by the petitioner, Medical Council of India directed the Secretary, Madhya Pradesh Medical Council, Bhopal to hold enquiry, make investigation and to take necessary action. Madhya Pradesh Medical Council, Bhopal, in turn, issued notices to the concerned Doctors and other Doctors making enquiry regarding their registration, Degree of M.B.B.S. and P.G. Degree vide its memo dated 17/01/2002, a copy of which is annexed herewith as Annexure P/3. Another memo was written by the said

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent no.2 – Madhya Pradesh Medical Council, Bhopal on 17/04/2002 a copy of which is annexed herewith as Annexure P/4. Petitioner had made a detailed complaint to respondent no.2, on 28/05/2002. Madhya Pradesh Medical Council, Bhopal issued notices to the respondents no. 3 and 4. Petitioner sent a letter on 09/07/2002 reminding Secretary, Madhya Pradesh Medical Council, Bhopal that several enquiries were made by the petitioner and information sought has not been supplied to him. When nothing was done, ultimately the petitioner gave a reminder to the Secretary, Madhya Pradesh Medical Council, Bhopal on 19/09/2002 and the petitioner has also submitted reminders to the respondent no.1. – Medical Council of India. Vide memo dated 26/09/2002 petitioner was informed by the Madhya Pradesh Medical Council, Bhopal that after making certain enquiries, the matter has been referred to Medical Council of India for taking appropriate action. However, till date no orders have been passed. The petitioner again made a representation on 04/10/2002 to the Medical Council of India, but till date an year has elapsed, nothing has been done.

Learned counsel for the petitioner submits that the registration in the Medical Council of India is done under the Medical Council of India Act. Therefore, the Medical Council of India is appropriate authority in the matter to take appropriate action against the respondents no.3 and 4. He further submits that even though the respondents no.3 and 4 are the registered M.B.B.S., they are claiming specialized in certain areas, but in fact they are not specialized in any

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित – 04 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

field, even then, the Medical Council of India is not taking any action against them, being registered medical practitioners.

Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, the petitioner is allowed to make a detailed representation raising all his grievance to respondent no.1 and respondent no.1, in turn, will consider the case of the petitioner and to take appropriate action against the respondents no. 3 and 4 on accordance with law.

With the aforesaid observations and directions, this writ petition stands disposed of. Consequently, I.A.No.10208/2003 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

[पीछे देखिये